



City of Albuquerque

Legislative File Number AC-06-6 (version 1)

---

## INTER-OFFICE MEMORANDUM

January 26, 2006

**AC-06-6** - 5LUCC-01637, Project #1004369 - Richard L. Gonzales appeals the decision of the Landmarks and Urban Conservation Commission to approve a Resolution in which the El Vado Motel/Auto Court is recommended for designation as a City Landmark, located at 2500 Central Avenue SW and described as Lots 24-39, Block 3 except the southerly 7.5 feet, Westpark Addition. (J-12) Maryellen Hennessy, Staff Planner

## INTER-OFFICE MEMORANDUM

January 26, 2006

**BACKGROUND:** On October 20, 2005, the Mayor, in accordance with the Landmarks and Urban Conservation Ordinance 14-12 R.O.A. 1994, made an application for Landmark Designation for the subject property. On December 7, 2005, the Landmarks and Urban Conservation Commission (LUCC) held a public hearing and voted to recommend Landmark Designation for the subject property to the City Council in accordance with the procedures outlined in the ordinance. The property owner does not consent to the designation.

**STANDING:** The appellant is the property owner. The City attorney for the LUCC advised the property owner and the Commission that the Resolution to recommend City Landmark designation is not subject to appeal in that it is not a final action and is a recommendation to City Council. Nonetheless, the property owner chose to file an appeal. The City Attorney for the LUCC has advised that the Land Use Hearing Officer may make the determination whether this is a matter that is appealable, and make recommendation to the City Council. The following responses are to the

Appellant's arguments as stated in the REASON FOR APPEAL of December 28, 2005:

1. **The Landmarks and Urban Conservation Commission's Landmark Designation Resolution was not complete in accordance with the Landmarks and Urban Conservation Ordinance. Cited Sections are as follows:**

**Section 14-12-3 INTENT** Appellant claims that the Ordinance "requires an existing urban development to be economically and socially viable" and that the motel is not viable "without extensive renovations at an unknown cost."

The referenced language does not require such viability of a specific owner or property, but rather encourages the conservation of existing urban developments in Albuquerque as viable economic and social entities. The cited paragraph intends to promote the preservation and re-use of cultural and historic properties and to protect the City's cultural assets from unnecessary destruction or defacement. In Section (14-12-8 (B)(7) the ordinance provides for an assessment of a reasonable economic return on a City Landmark property.

Appellant claims that the motel "could no longer attract a tourist clientele in sufficient numbers to generate the necessary income to pay for expenses, maintenance and improvements." The Commission's recommendation in favor of City Landmark designation does not require the operation of a motel on these premises. The existing C-2 zoning permits a variety of uses other than lodging. City Landmark designation of El Vado, if enacted by the City Council, would only control the nature and extent of alteration of the property, in order to protect its historic architectural character.

#### **Section 14-12-5 LANDMARKS AND URBAN CONSERVATION COMMISSION**

Appellant cites the ordinance in that the "LUCC shall consist of seven member with specific training and experience to adequately carry out the duties and responsibilities of the Commission." This Commission consisted of only five members, and as such, the application "may not have received a fair, complete, impartial and adequate review because of lack of training, qualification and experience mandated by the Ordinance."

The five duly appointed members of the Commission constitute a quorum. The Commissioners voting on the application included two registered architects, one licensed real estate agent, and two lay persons knowledgeable in the areas of law, history and archaeology, one of whom is a property owner in a Historic Zone, as required by the Ordinance.

#### **Section 14-12-7 LANDMARKS DESIGNATION**

**(B)(1)(c)** The appellant did not consent to the Landmark designation, was not the applicant, and the required statement provided to the Commission regarding the lack of owner's consent was inaccurate and unjustified; "based on the fear that I would demolish the motel". He claims that he made no attempt to demolish the El Vado, offering the fact that no demolition application was made. Therefore, he concludes, the statement was inaccurate and unsubstantiated.

The Ordinance (B)(1) states "an application for Landmark Designation may be made by the Mayor or his designated representative, or by a person with direct financial, contractual, or proprietary interest in the affected property." It goes on to say that the application should include "The owner's written consent to the designation, or a statement as to why the Commission should proceed without the owner's consent."

The appellant's interest in demolishing the El Vado Motel is well documented. Application 05DRB01279/Project # 03469 (8/8/05) requested sketch plat review and comment on development that included the replacement of the El Vado Motel with residential townhouses. It was noted at the hearing on 8/15/05 that the property was a Registered historic property, but that it was not controlled by any City ordinance or regulation related to historic preservation; and therefore, not protected from demolition.

Subsequently, appellant filed applications 05EPC-01392 and 05EPC-01393 on 9/1/05 for Amendments to the Zone Map and Sector Development Plan requesting to change the zoning on the subject property from C-2, a zoning designation consistent with the existing use, to R-2 to allow for residential use, a designation inconsistent with the existing use.

Several newspaper articles were published including one published in the Albuquerque Journal on 11/13/05 entitled "Landmark ABQ Motel to be Razed" in which the appellant was interviewed and spoke of his townhouse development plan for the property and was quoted to say of the El Vado "It's been a real eyesore for a while," "I'm sick of looking at it." City Planning received substantial public comment in opposition to the proposed development and the destruction of the El Vado Motel.

The Ordinance provides for protection of a property as if it "were a City Landmark" for 110 days after an application for Landmark Designation is made. This allows for an interim control period during which the property's significance can be assessed and a determination made by the appropriate governing bodies. The application was an appropriate response to the circumstances.

**(B)(3)(b)** Appellant notes that no comments from City safety, health and building departments were obtained and that such information is critical to "the extensive renovation required under a Landmark Designation."

The Ordinance states that the report shall include "the comments of other involved departments and agencies." The report included comment from the State Historic Preservation Division in regard to the historic significance of the property. At the time of the application, the property was in use as a motel and there was a reasonable assumption that the property was habitable. The ordinance addresses minimum maintenance requirements for City Landmarks to prevent demolition by neglect, but there is no mandatory requirement for renovation of properties. As already discussed, there is an opportunity to evaluate economic return on investment for any Landmark after designation and upon request for a Certificate of Appropriateness for alteration, demolition or new construction (14-12-8(a)(7)).

**(B)(3)(d)** The appellant considers the "analysis of economic impact of designation on the premises" contained in the report to be inadequate and incomplete. He claims that economic viability is a critical

test for landmark designation and that the burden of proving economic viability rests with the applicant.

The City Attorney for the LUCC advised the Commission that the economic impact of designation on the premises was not within the purview of the Commission, and that final decision for designation rests with City Council. The ordinance states that the report shall include such analysis, but is silent on any other direction with regard to the analysis.

The LUCC's Resolution recognizes that "City staff has ordered an appraisal of the El Vado such appraisal to address the value of the El Vado both with and without landmark designation, which appraisal has not been completed" and includes the statement "The Commission recommends to the City Council of the City of Albuquerque that the El Vado Motel (Auto Court) be designated as a local historic landmark pursuant to *Section 14-127 Revised Ordinances of Albuquerque, 1994* provided that that the City Council finds that the economic analysis and appraisal satisfy the requirements of the LUCC ordinance."

The report contained a discussion of the current popularity of vintage motels and provided examples of that and of successful businesses located in other City Landmarks. Again, the existing C-2 zoning also permits a variety of uses other than lodging.

As discussed above, upon application for a Certificate of Appropriateness for alteration, demolition or new construction on a City Landmark property, an opportunity to evaluate reasonable economic return on investment of an individual property is provided for, in detail, in the Ordinance. (14-12-8(a)(7)).

**(B)(4)** The appellant claims that a statement made by a Commissioner at the public hearing to the effect that the LUCC could only act upon the application as presented was an erroneous interpretation of the Ordinance that affected the outcome of the decision.

No evidence is presented by the appellant, nor found by City staff in the record, to indicate that this was the understanding of the Commission. The Commission may recommend modifications to a proposed landmark designation (Section 14-12-7(B)(4)), but did not do so when the Appellant proposed his alternative to City Landmark designation. The Chairman noted that the application before them addressed the entire site. The Commission found that all three buildings in the complex were worthy of preservation and recommended same to City Council.

**2. The Commission's decision failed to consider the Owner's property rights and acted in complete disregard for the Owner's interest if this Landmark Designation is placed on the El Vado Motel.**

Appellant acknowledges that the El Vado Motel "has some historic significance" and refers to a redevelopment plan that could preserve a portion of the Motel and permit some new development. That portion is about 1/3 of the 1.26-acres recommended by the Landmarks Commission, such a small percentage that the historic integrity of the El Vado Motel would be lost and its current listing in the National Register of Historic Places put at risk.

Appellant offers an alternative to City Landmark designation - to place a Deed Restriction on the same portion of the 1.26 acres, and claims that a viable economic entity will result. However, the property owner, Appellant, is able to place a deed restriction for conservation on any portion of the property at any time without approval or comment from the Landmarks and Urban Conservation Commission.

APPROVED:

---

Jack Cloud, Interim Manager  
Development Review Division  
Planning Department

x:share/council/appeals/2006/ac-06-6